

## INDIANA LEGISLATURE.

[Omissions and curtailments of this report for want of space in these columns will appear in an appendix to Volume XXII of the *Brevier Legislative Reports*.]

## IN SENATE.

TUESDAY, March 3, 1885.

On motion of Mr. FOWLER, the rules were suspended, and the Senate took up consideration of the bill [H. R. 280] relating to mines and mining, which was passed by yeas 42, nays 0.

Mr. FOWLER explained the changes it proposed to make in the present law, and stated its provisions were acceptable both to miners and operators.

CLAIMS AGAINST THE STATE.  
Mr. CAMPBELL, of Hendricks, called up his bill [S. 341] relating to claims against the State.

An amendment by Mr. Willard to strike out in Section 1 the words "on any account whatever" was agreed to.

On motion by Mr. WEIR, the bill was further amended so as to quiet the title to real estate sold by the State and fully paid for.

Mr. FOWLER: The necessity of this measure is apparent. It is perfectly evident that it is necessary to have some proper court or tribunal which can proceed according to legal forms to ascertain the legality of claims against the State of Indiana. What would be the objection to allowing persons having claims against the State to file their claims in the Supreme Court and have the Attorney General represent the State. I moved that all claimants be allowed to file their claims in the Supreme Court, and that the Attorney General represent the State.

Mr. CAMPBELL, of Hendricks: It is a great deal less expensive for a court to sit and hear witnesses on one of these claims than for 150 men to sit and hear the witnesses. Our experience has demonstrated that we are compelled to sit in judgment on claims involving many thousands of dollars, of which we know almost nothing. It occurs to me that it would not only be a hardship to many claimants to have to file their claims in the Supreme Court, but it would be a burden to the State. I moved that that kind of business in their hands. I am quite sure that claims are allowed here that would not be allowed by a court. If this bill becomes a law, and a person presents a claim against the State of Indiana, here, can I refer it to a tribunal where it can have just and equitable action. When the Court of Claims was enacted by Congress it was an experiment, and from time to time the law governing that court has been amended until it is satisfactory. This law was only in operation two years, and it experience shows that it is imperfect. It can be amended at the end of that time. It has been said that we may have Prosecuting Attorneys not honest enough to represent the people. I consider it an unjust reflection upon the officers of the State to say they would not properly look after the interests of the people. It is my opinion that if this bill becomes a law the amount paid out by the State for claims will not be more than one-half what it now is. The Court of Claims had from 1885 to 1889 considered and adjudicated claims amounting to \$80,000,000, and the judgments rendered were a fraction less than \$20,000,000, whereas if the claims had gone before Congress the probabilities were that nearly the whole amount might have been allowed by Congress.

Several States of the Union have enacted laws permitting suits to be brought against the States, and experience has shown the wisdom of such laws. Only in one State, so far as I know, has there been a proposition or suggestion to repeal the law, and that was in Tennessee, where the debt has become so great it was impossible ever to pay them, and the law was repealed in that State, which was avowed repudiation.

Mr. FOWLER: This bill provides that after the claim has been adjudicated the Auditor of State shall issue his warrant for the sum. When there are claims to be paid by the State, I have no doubt if this becomes a law it will save thousands of dollars to the State of Indiana. I think it is right that the State of Indiana shall establish a Court of Claims.

Mr. YOCHE: In favor of this bill, provided the amendment proposed by the Senator from Wayne is adopted. It is a recognized fact that the claimant brings his witnesses in the court and it always decides in favor of the claimant against the whole State. The proposition to permit the Circuit Court of the current counties to adjudicate upon these matters I am opposed to.

Mr. McCULLOUGH: I am opposed to the bill as it now is, and I will vote against it. I do not believe it would be just to let courts and Prosecuting Attorneys stand before the parties and decide in favor of the man who does work for the State, and without a fair showing, lobby their measures through.

Mr. CAMPBELL, of Hendricks: Rather than have the bill fail, if the Senators who favor the measure will accept the amendment of the Senator from Wayne, I will accept it.

Mr. WILLARD made an ineffectual motion to strike out Section 3 of the bill, saying: This is an attempt to destroy altogether the legislative power by making a continual appropriation bill with an intervention of the Legislature.

Mr. Willard then moved to strike out of Section 3 the words "of any Circuit Judge."

The motion was agreed to.

Mr. CAMPBELL made an ineffectual motion—yeas, 30; nays, 13—that the constitutional rules be suspended, that the bill be read the second time by its title, be considered engrossed, read the third time and put upon its passage.

Mr. McCULLOUGH, explaining his vote, said: A bill of this kind will be very far-reaching in its consequences. It would open the way to throw into the Supreme Court hundreds of cases. Therefore I am opposed to suspending the constitutional rules to put the bill through to-day.

Mr. SMITH, of Jennings: I believe it is absolutely necessary that these claims should be removed from the Legislature.

Mr. WINTER, when his name was called, said: I was one of the members of the Judiciary Committee that reported favorably on the bill. I would very cheerfully support the bill in its original shape with the amendment offered by the Senator from Wayne (Mr. Foulke). I think the amendments of the Senator from Laporte (Mr. Weir) should not be adopted.

On motion of Mr. Campbell the bill was ordered engrossed.

## CONVICT LABOR.

On motion of Mr. JOHNSON, of Tippecanoe, the constitutional rules were suspended, and the Senate took up considera-

tion of the joint resolution [S. R. 8] proposing an amendment to the Constitution to regulate the hiring of convict labor.

Mr. JOHNSON: This is a very important measure, and one which Governor Porter recommended should be put immediately into operation. Two years ago I had the honor to introduce, on the floor of the Senate, resolutions and afterwards a bill looking towards that same thing, and while a majority of the Senators then here were in favor of the measure, it failed, on account of want of a proper remedy. It was my belief because we could not find the proper remedy that the measure failed. Anybody with an unbiased mind will say that the system ought to be abolished. Measures have been introduced in every Legislature in the country. The man that employs the convict labor at a merely nominal wage, and gives him over the free labor. The man who employs free labor must employ it at a loss. A great wrong is done to the moral nature of the convict. It would be marvellous if the convicts under the present system could reform. We turn them out ill-fitted for the labor of the country. The convicts might be employed in making all articles necessary in their own and similar institutions.

Mr. WILLARD: The Democratic party in the last campaign stood firm upon this legislation. The Democratic platform asserts that it is in favor of using the convict labor so as not to compete with free labor. For four years we have attempted to repeal the evil. When Legislative Assemblies have found it impossible to pass this measure, it is time it should be looked to. The convict system is an outrage. The contractors all over this country have grown rich under the operation of this iniquitous system. The profits of the labor go not to the State, but to individuals. We have had enough of half-way measures in this matter; for the past six years we have made various attempts to legislate in this matter. This constitutional amendment will tend to the reformation of the convict.

The joint resolution was ordered engrossed by yeas 21, nays 18.

Mr. BAILY, in explaining his vote, said: I am very much in favor of this resolution. The present system of convict labor is not only injurious to the convicts themselves, but to free labor. I vote "aye."

Mr. WEIR made an explanation of his vote which he desired should go upon the records of the Senate, as follows: Mr. President, I vote no on the adoption of this joint resolution amending the Constitution, for the reason that the Constitution in force gives the Legislature all necessary power to regulate the matter, and this proposed amendment is wholly unnecessary. The present Legislature can regulate the question of convict labor as well as to wait four years for the adoption of this amendment to the Constitution.

Mr. MAGEE suggested, as his explanation is not in the nature of a message or other paper which properly go of the journal of the House, it ought to go into the Brevier Reports, where the remarks of the rest of us go.

Mr. WEIR: Certainly.

It was so ordered by consent.

The vote was then announced as above.

So the joint resolution was ordered engrossed for the third reading.

## AFTERNOON SESSION.

## CONSTITUTIONAL APPOINTMENT.

On motion by Mr. MAGEE the Senate proceeded to the consideration of the "Constitutional Appointment bill" [H. R. 423], which was read the third time.

Mr. JOHNSON, of Tippecanoe: It is with a feeling of regret, almost amounting to sadness, that I rise here to make some remarks upon this proposition to reorganize the State of Indiana in a manner in which it has passed the House of Representatives, or by the amendment to that bill. This proposition, I understand, has not only received the approbation of the joint Democratic caucus, but also the endorsement of the House of Representatives, and yet Mr. President in spite of these considerations, which in the eyes of many Democrats may be of paramount importance, I cannot persuade myself to support it and vote for it. My opposition to this appointment bill, as it comes from the House, and also as it is amended, is caused by the conviction that it conflicts with my ideas of and my respect for right, justice and fairness, and that by voting for it I would sanction and help to commit a wrong which finds no excuse or apology in the conduct of party.

Mr. CAMPBELL, of St. Joseph: If any political measure ever offered for endorsement call for all the attributes of greed that humanity can summon to stifle its natural tendency to decency and equity, these Congressional and Legislative bills are no measure. Party caucus and organization in right for the purpose of forwarding measures in the interest of the people, but when against the people and against right, and against the spirit and letter of the Constitution, it is then time to step out from caucus and party and stand for the people and the company he is in when he walks alone. These appointment bills are made without regard to ratio of voting numbers in direct conflict to the mandate of the Constitution. Can Democrats upon this floor force the oath of fidelity to the Constitution and give the stamp of official approval to these products of irresponsible politicians. The purposes of these measures are to disfranchise a large number of the voters of this State, to deny a large number any representation at the National Capital, to take charge of every institution of the State and throttle advice or criticism, to lock the doors of the uncounted treasury and manacle every hand that would open to investigate. These measures have not even a pretense of being dictated by any standard of justice, but are the work of a few men, arches and Arabs and pirates and Indians and the like, the taints "you did it first," "you are another," the logic of which is that to copy and repeat the meanest things Republicans ever did is the highest virtue to which the Democratic side can expect to attain, and a proof that the Democratic cry of fraud and corruption and theft has not been a call to protection, but the rallying call for pillage and plunder.

Mr. HILLGASS: I will commence by saying that I am in favor of this bill, and in presenting this amendment for consideration I am not presenting it to the people of the State of Indiana, I want to claim that there has been no such Congressional map given to the people in its contiguity of territory. It presents as just and as fair an apportionment as ever has been made of the State of Indiana. It is true we have nine of the thirteen Congressmen, but it is also true that in 1873 the Republicans made an apportionment that gave them eleven out of the thirteen Congressmen. I will say to the Democratic side of this House that we can stand before any audience in the State and hold that map up with pride. [See appendix.]

Mr. YOCHE: If my party were in the majority and would present a bill which to my mind is as unfair as this bill, I should not vote for it. I should take the position of the Senator from Tippecanoe (Mr. Johnson) and say that that repudiated any action of that kind. Under this bill it would take 24,514 Democratic votes to elect one Congressman, while it would take 7,248 Republican votes to elect one Congressman. In other words, one Democrat has as much Congressional representation as three and one-half Republicans. Will anybody say that is fair? [See appendix.]

Mr. WILLARD: Never in the history of Indiana was there an apportionment like that of 1873. The Republicans passed that law under the operations of the previous question without allowing discussion, and without even allowing the bill to be printed. The result of that bill was to give the Republicans eight members of Congress and the Democratic party only five. This kind of talk about fairness is something all ways heard whenever an apportionment bill comes up. This bill has been drafted upon the plan of making it equal as between the two sides, and upon the plan of giving the party in power on this floor, could we do less? This bill has been drawn in fairness. Were it not done in fairness I certainly would not give it my support. [See appendix.]

This bill passed by yeas 29, nays 17.

## LEGISLATIVE APPOINTMENT.

On motion by Mr. Hillgass the special order being the Legislative apportionment bill [H. R. 423] was taken up with the engrossed amendments made last night.

Mr. HUSTON: I feel that it is the privilege and duty that devolves upon every Republican Senator upon this floor to at least express his disapprobation of this bill. I admit the fact at the outset that we of the minority expect no good result from this argument we may make. Though we may show this bill ever so unfair, ever so infamous, or ever so unjust, it can in no sense affect the result. Therefore in speaking of the provisions of this bill I shall endeavor to point out those instances in which I feel the minority has been trampled upon. [See appendix.]

Mr. WINTER: I shall not call attention in detail to the enormities of this bill. That has been well done by the Senator from Fayette (Mr. Huston). I wish to call attention to one feature of this bill. We have a Democratic party has a right to deliberately violate the Constitution which each of us have taken an oath to support. The Constitution requires that each county shall be given the full representation which its population entitles it to. I propose to show that this bill deprives at least one county (Marion) of its constitutional rights. [See appendix.]

Mr. MAGEE: This bill has grown out of that fair dealing we always try to show to our Republican friends. The Senator from Fayette (Mr. Huston) and the Senator from Marion (Mr. Winter) have both insisted that under the provisions of this bill the people would not enjoy their constitutional rights. This same State Constitution was in force in 1867 and 1872, and at that time the same argument made by Republican Senators now was made by Democratic Senators then in opposition to that gerrymandering. The Democratic party has the strength of a giant, but it has not exercised it in the spirit of tyranny. The representation that bill gives to the Democratic party at the next General Assembly is not equal to the representation the Democratic party has today in this General Assembly. We have a Democratic majority on joint ballot of forty-five, while under the provisions of this bill we would have but thirty-two. There is a concession to you of fourteen members of the General Assembly. [See appendix.]

Mr. MARSHALL: Some Republicans have said they believe the Democrats would lose the election if this bill were passed. I don't look at that way. I believe their intention has been to so disfranchise the Republicans of this State and put their feet upon our throats that they will throttle the life out of our party and business.

They are afraid to meet the Republicans of the State with the same kind of arms and munitions they ask us to meet them. [See appendix.]

Mr. Overstreet, Mr. Foulke and Mr. McClure continued the discussion. [See appendix.]

Mr. FOWLER demanded the previous question.

The demand was seconded by the Senate, and under its operations the bill passed by yeas 30, nays 17.

Mr. FALKNER explaining his affirmative vote, I think this bill a very fair one—especially the Democratic side of it. [Laughter.] If we had any more Daniel V. Voorheeses I would not be particular about having quite as large an advantage; but as we have not only him, but we have fully as good and better than the Republicans who want to go into the Senate, and as this is the last day of Republican rule in the United States. When the sun sets to day it goes down on Republican rule, and in the morning it rises on the great star of reform. In Washington, the dome of the Capitol and the great Mexican Band is to be there to blow the reggie's march. [Laughter.] I vote "aye."

## NIGHT SESSION.

The Senate took up the bill [H. R. 204] appropriating \$30,000 for the Indiana University.

Mr. DUNCAN, of Brown: Thirty thousand dollars is not enough. In 1883 a destructive fire destroyed the museum and the library amounting to \$118,000. To cover this loss the county of Monroe gave \$50,000, and the State gave \$72,000, and the University gave \$13,000. There were 143 students in that institution, and thirty-six belong to Monroe County. More than half of these thirty-six are children of parents who have moved to Monroe County for educational purposes.

Mr. WILLARD: I cannot see the necessity of appropriating \$30,000. They want more for the library than it originally cost. When they could have gotten ground free they paid \$300 an acre for it and moved the university a mile off. They want \$5,000 for chemical apparatus, when they have already expended \$5,000 for that purpose. There was no itemized report of the expenses brought before the committee, although often demanded. The Trustees did not show that they needed more than \$25,000.

Mr. McINTOSH: Will you not set value received for the appropriation? The trustees, that institution is not worth that much to Indiana. There are other institutions in the State which have just as good instructors. The sooner you get rid of that institution the better. It is strange that these other institutions are able to pay their teachers and their expenses, while this State in situation is dragged on the State. I move that the minority report be adopted.

Mr. MAGEE: I was at the Bloomington Institution three years, and I know the workings of the institution. I know the paltry salaries paid at Bloomington. We owe it to the people of this State to make a suitable appropriation to this deserving institution. This institution has produced many of the brightest minds in the State. The institution is there, and ought to be supported liberally by the State. I would like to vote \$50,000 or \$75,000 for this institution rather than for the small sum demanded. I hope to see the day when the Normal Schools and Purdue University and the Bloomington College will redound to the glory of this State. If the power of this institution has been crippled by anything, it has been crippled by the parsimony of our succeeding Assembly. I hope there will not be a dissenting vote against the appropriation to this noble institution.

Mr. FOWLER: I know the Trustees, and I feel certain that they would not have purchased those lands for \$300 per acre for any other than good reasons. I think the Trustees made a wise and prudent purchase. The old grounds were utterly unfit for the Uni-

versity. I know of no more eminent men than have graduated at any other institution than Bloomington. I believe that the institution ought to have more than \$30,000. Bloomington is not a sectarian institution. I have been careful about voting money. I have always, however, voted money to educational purposes. I was uninformed when I voted on the Purdue University bill, and I was not enlightened until Dr. Smart, President of the institution, handed me the act of Congress, with the act of the Legislature of 1885 accepting the Congressional gift. By the act of Congress it is made the duty of the State to support this institution, and on failure so to do, the State is held liable to return to the General Government the gift. When I voted against the appropriation the other day I did it under a misapprehension that there was no obligation resting on the State to support this institution, and I take this the first opportunity of correcting my error. I am in favor of liberally supporting all the State educational institutions of the State. The State University deserves to be liberally supported. I hope this bill will pass and the appropriation made. It is a worthy object, and we can not afford to smother it to death. If you are not in favor of making the doors of the institution and drive the students from her halls, I trust this will never be done. Let it never be said that we are opposed to supporting our educational institutions. Let that time never come; but with a liberal hand and generous support uphold them in the most reasonable appropriations. I trust the bill will pass.

The minority report was rejected.

On motion by Mr. YOCHE the majority report was adopted.

On motion of Mr. WEIR the constitutional rules were suspended by yeas 41, nays 13, and the bill read the third time by sections and passed by yeas 44, nays 2.

On motion of Mr. DAY the bill [H. R. 430] was taken up, the constitutional rules suspended, the bill read the third time and passed by yeas 40, nays 0.

Mr. FRENCH: If I ever own a Supreme Court Report I have it yet to buy. So I shall have no selfish motive. I do not want to correct one evil by inflicting another. This bill leaves out of the question the fact that the office of Reporter demands three assistants, and to reduce, as this bill does, will be to legislate the office out of existence. We can not afford to do that. That is the reason I shall be compelled to vote against it. The bill to establish the Appellate Court will, if passed, take a good deal of work from the Supreme Court, and this lessens the income of the Reporter, and Mr. RELVES: It has been said here that the Reporter must have three assistants. Now under this everything going to the Reporter goes to him written out. All he has to do is to write out a small syllabus.

The bill failed to pass by yeas 40, nays 47.

Mr. BROWNING, explaining his vote, said: Believing that the bill is unfair in all its provisions I vote "no."

Mr. GORDON: Believing that this bill would be quite as unjust to the Reporter as the present law is said to be to the people, I vote "no."

Mr. BARRELL: Because the bill does not give a sufficient allowance I vote "no."

Mr. HOBAN: Because the new bill does not give a sufficient allowance I vote "no."

Mr. JEWETT: Two years ago I voted for a reasonable reduction of the salary of the office, the reduction to take effect, however, at the expiration of a term of office, so that the man to be elected would know what the fees would be. As I am opposed to changing an official's salary during his term of office, I vote "no."

Mr. KELLYSON: Because I want a reform in this office and in hope that the Senate will amend this in some particulars, I vote "aye."

Mr. PASSAGE: For the reason that as the law now stands those who receive the books pay for them, and for the reason that the bill will call for \$3,000 of the people's money, I vote "no."

Mr. WILLIAMS: While the bill is not without objection, yet the bar at my home and my constituents demand a reform, and hoping it will be considered in the Senate, I vote "aye."

Mr. GOODING: As a reform is needed, and as I hope the bill will be amended in the Senate, I vote "aye."

The vote was then announced as above.

So the bill failed to pass.

Speaker J. wetted resumed the chair at the opening of the afternoon session.

THE SPEAKER: There are two special orders now pending, the General Appropriation bill and the bill creating an Appellate Court. I have been informed that the House refused on Monday morning to take up the appropriation bill, which was set for that morning. Of course that is past and can not be helped. But it should come up.

Mr. GORDON: This very important bill should now come up, and if the smaller bills are not reached let them go.

Continued on Seventh Page.

House Items and Topics.

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PUBLICATION OF SUPREME COURT REPORTS.

Mr. REEVES' bill [H. R. 8] providing for the speedy publication of decisions of the Supreme Court, was read the third time.

Mr. DEES moved that the bill be recommitted to the Judiciary with instructions.

Mr. PLEASANTS made an ineffectual mo-

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